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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,847	02/08/2002	Edward Archie Mcculloch	597000.01111	9649

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BLANK ROME LLP  
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WASHINGTON, DC 20037

EXAMINER
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SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/067,847

Applicant(s)

MCCULLOCH, EDWARD ARCHIE

Examiner

Kofi A. Schulerbrandt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 7 and 10-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4, 6, 7 and 10-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Marked-up Copy of U.S. Patent No. 5,493,839 Figures 1, 2, 2a and 3-9.

### **DETAILED ACTION**

This third Office Action is in response to Applicant's Amendment received in the Office on February 3, 2004 in this case.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one longitudinally-extending reinforcing rod attached to the edge of the panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6, 7 and 10-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1-4, 6, 7 and 10-23, the phrases "upper faces", "lower faces", "vertical edge", "horizontal raised ribs" and "vertical raised ribs" are confusing and indefinite because applicant amended the claims to define multiple panels making up a structure that has numerous varying orientations.

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For example the upper surface of a roof panel may not be the upper surface on a floor panel or some other portion of the structure.

Claims 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The examiner cannot find the phrase "at least one longitudinally-extending reinforcing rod attached to the edge of the panel" in the original disclosure or identify the features in the drawings. The closest that the disclosure appears to support this amendment is on page 10 of the specification where rods are discussed. The subject matter of the amendment of claim 17, however, does not appear to be supported there. Therefore, no art rejections have been made to claims 17-19.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 7, 10, 16, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Sax et al. (5,493,839). Sax et al. teach each feature of the claimed invention as shown in the attached marked-up copy of Sax's Figures 1, 2, 2a, 3-6 and 9.

Regarding claim 10, Sax et al. inherently teach a triangular shaped combination of panels (48) abutting the bottom or the triangular shaped roof.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sax et al. (5,493,839), in view of Paddock (6,604,328). Sax et al. teach each feature of the claimed invention except a polymer composite material and a panel having an opening. Paddock, however, teaches a glass fiber reinforced polymer (See col. 15, Ins. 31-34) and a panel having an opening (See Figure 1, (21)). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sax et al.'s panel of a composite polymer as taught by Paddock as an obvious design choice since numerous composite materials may be used equivalently adequately construct Sax et al.'s panel. Furthermore, it would have been obvious to have formed a hole in a panel for uses as a door or window as taught by Paddock in order to access the completed building.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sax et al. (5,493,839). Sax et al. teach each feature of the claimed invention including panels of varying lengths and widths. Sax et al. do not teach a panel with

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equal length and width or specifically teach a length twice as long as a width. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Sax et al.'s panel length and widths to be whatever dimension was necessary to create a structure of the desired dimensional design. For example, shorter (square) wall panels may be utilized for a doghouse.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sax et al. (3,493,839), in view of Paddock (6,604,328) and Draper et al. (4,168,924). Sax et al. and Draper teach each feature of the claimed invention as discussed above except construction of the panels from a polyolefin material. Draper, however, teaches construction with a polyolefin material (col. 7, line 68). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sax et al.'s panels from a polyolefin as taught by Draper as many suitable materials would be equally suitable for construction of Sax et al.'s panels.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sax et al. (5,493,839), in view of Paddock (6,604,328) and Peshkam et al. (U.S. Pub. 2001/0032430 A1). Sax et al. and Paddock teach each feature of the claimed invention as discussed above. However, neither Sax et al. nor Paddock teach a panel containing a glass fiber additive. Pashkam et al., however, teach a glass fiber reinforced polymer (paragraph [0053], line 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have constructed Sax et al.'s panel of a composite polymer as taught by Peshkam et al. as an obvious design choice since numerous composite materials may be used equally satisfactorily.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sax et al. (5,493,839), in view of Paddock (6,604,328) and Sweeney (5,268,226). Sax et al. and Paddock teach each feature of the claimed invention as discussed above except for compressed panels. Sweeney, however, teaches a compressed panel (claim 12). It would have been obvious to ordinary skill in the art at the time of invention to have formed Sax et al.'s panels from compression of polymer and fiberglass as taught by Sweeney as use of such materials for panels is well known in the art to provide strong light panels.

***Examiner's Response to Applicant's Remarks***

Applicant's Remarks have been considered but are moot in view of the new grounds of rejection.

***Prior Pertinent Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '950 to Harris. Harris teaches the claimed panel truss system.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).




A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kofi Schulterbrandt  
February 26, 2004



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER